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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Seventh session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 3 December 1992, at 3 p.m.

Chairman: Mr. MUTERAHEJURU

later: Mr. ALSTON

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GE.92-18715 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS (agenda item 5) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Italy (E/1990/6/Add.2) (continued)

1. At the invitation of the Chairman, the Italian delegation resumed places at the Committee table.

2. Mrs. JIMENEZ BUTRAGUEÑO congratulated the Italian delegation on its replies and asked whether it could communicate them to her in writing since Italy was facing problems very similar to those confronting her own country.

3. That said, she asked why the age of retirement had been raised to 67 in Italy, and inquired whether Italians were obliged to retire or whether they could continue working after 67 years of age. She also asked whether retired persons were entitled to engage in gainful employment and whether any use was made of their experience either on a voluntary or a remunerated basis.

4. With regard to the right to health, she asked whether the economic crisis and budget cutbacks were having any impact on preventive medicine, whether the elderly had to pay their own medical expenses and, if so, whether any account was taken of their income. She also wished to know whether any facilities had been provided to cope with the ageing of the population and whether any steps had been taken to help those of the elderly who required continuous care or those with a terminal illness.

5. Lastly, she wished to know whether the elderly had access to education and what part they played in the cultural life of the country.

6. Mr. FOFANA asked for information on social security coverage in general and with respect to the different social groups, and the manner in which it was funded. With regard to article 10 of the Covenant, he asked what the marriage and divorce rates were in Italy, and what provision was made for orphans, abandoned children and children with physical or mental disabilities. He also wished to know what the comparative status was of children born in and out of wedlock. With regard to article 11 of the Covenant, he asked for information on the jurisprudence governing eviction notices served by owners who wished to reclaim their property for their own use.

7. Mr. NENEMAN said that according to the report (para. 242), once pupils in the upper secondary school system had chosen a particular track, their educational course was virtually sealed. In other words, a pupil attending a vocational training establishment could not go to university. He asked whether any measures were planned to give more flexibility to the system. With regard to television programmes, he noted from paragraph 359 of the report that 40 per cent of transmission time was reserved for Italian films or films from Common Market countries and wondered what kind of programmes were shown in the remaining 60 per cent. As for public housing, he understood that

the supply was quite inadequate to meet the demand and asked whether there were any plans to increase it. He pointed out that three million families in Italy were living below the poverty line and had a right to such housing.

8. Mrs. PINET (World Health Organization) asked how the programme worked for providing skilled help at home to persons who were HIV positive or suffering from AIDS. She believed that the regions were responsible for implementing the programme, but the regions were not all at the same level of development and could not call on the same resources. She therefore asked how the programme was coordinated, what link there was with the hospital staff responsible for the decision to send a person home, and how patients could receive appropriate care in regions in which the programme was not yet in operation.

9. Mr. KONATE asked what was meant in paragraph 47 by the "right of minors to socialization".

10. With regard to immigration, he noted that although Italy was a country of emigration, the authorities applied somewhat restrictive laws to foreigners, particularly in the case of migrant workers, who were obliged on leaving Italy to ask for an exit visa to enable them to return. He wondered whether that was not a discriminatory measure contrary to the International Covenant on Civil and Political Rights, to which Italy was a party. He also asked for information on equal access to work and equal treatment for migrant workers.

11. Mr. MEZZALAMA (Italy), replying first to the question on the possible negative impact of the abolition of wage indexing on earnings, said that the system had been abolished following tripartite negotiation between the Government, the employers and the unions. He observed that the unions would not have approved the decision had it been detrimental to workers. Furthermore, the agreement reached at the outcome of the negotiations provided not only for abolition of wage indexing but also for a whole range of measures intended to redress the economy, protect employment and guarantee workers social protection by, for example, introducing a system of compensation that would allow a worker to be suspended temporarily while still being paid. The intention had therefore been to remove the automatic aspect of the wage indexing system and provide some flexibility in order to safeguard wage-earners' interests.

12. With regard to the right of the police and the armed forces to join trade unions, the police had formed their own union, which represented them in talks with the Government on economic and social matters. The armed forces had an organization similar to a union which defended their interests in talks with the Ministry of Defence. In addition, the police and the armed forces were entitled to lay matters before an administrative tribunal should direct negotiations with their employers break down.

13. He wished to stress that migrant workers were not discriminated against in any way. However, a distinction had to be made between the migrant worker in possession of a work permit, who was in a lawful situation, and the clandestine worker. In the first case, the migrant worker received the same treatment as an Italian worker with regard to wages, social security, paid leave and medical care. A worker who had come to Italy as a tourist and whose

situation was irregular could obviously not expect the same treatment as a migrant worker whose situation was in order. In any event, under a very liberal law, all migrant workers from countries outside the European Community (Community workers enjoyed a special regime) who were in an irregular situation had been given an opportunity to regularize their position. As a result of the law, several thousand clandestine migrant workers had done so.

14. On the subject of privatization, he recalled that Italy was the western market-economy country with the largest number of State-owned enterprises. Given the competition from other European firms, the State had had to spend enormous sums of money to keep those enterprises in business. It had finally decided to make a selection, keep those considered as strategic such as the supermarkets, which in the event of an increase in inflation, could help to stabilize prices through market forces, and privatize the rest. The procedure was thus one intended to revitalize the economy. The State did not privatize enterprises without prior negotiation with the trade unions and arrangements for the transfer of workers whose enterprises had been privatized. Because of that approach, there had been few clashes between unions and employers and instead a system of collective bargaining had developed to safeguard the interests of workers and employers in both the public and private sectors.

15. As to the "fair rent" system, he recalled that the system had been introduced just after the Second World War to prevent the housing shortage giving rise to speculation. The housing that had been destroyed during the war had gradually been rebuilt, but the fair rent system had been retained. However, the time had come when the private sector had stopped investing in construction since low rents no longer made it profitable. Building had consequently slowed considerably, resulting in a shortage of available housing on the market. In addition, many apartments remained empty because their owners did not wish to let accommodation at low rates to persons whom it would be difficult to get rid of later. In the circumstances, the authorities had decided to relax the law relating to fair rents by, for example, allowing owners and tenants to reach mutual agreement on a higher rent.

16. As for eviction, he reported that a committee in each province, under the chairmanship of the senior administrative official (prefetto) of the province, was responsible for scrutinizing all eviction cases, the social situation of the persons concerned being one of the factors taken into consideration. However, it must be admitted that the State was not building enough low-cost housing, mainly because of regionalization, which had multiplied administrative procedures and increased the bureaucratic machinery involved.

17. With regard to bioethics Italy had at present no legislation on the subject. There was, however, a National Bioethics Committee, comprising the Minister of Social Affairs and eminent specialists and physicians, which acted in an advisory capacity to the Presidency of the Council.

18. The purpose of the Schengen agreements was to promote the free movement of persons, but care had to be taken to prevent the entry of those posing a threat to public order. The question was thus not one of restricting rights, merely of regulating them.

19. As for the penalties to which drug users were liable, the 1975 Act had been particularly stringent and penalties had regularly been applied under it. However, the 1990 Act had made a new departure by introducing various administrative procedures before the application of penalties, in order to try to "reform" drug abusers. The process was designed to delay recourse to penalties as long as possible to allow drug abusers to follow detoxification treatments. The decriminalization of drug use was the subject of lively public debate in Italy at present, as in other European countries.

20. Italy had three major groupings of labour unions, Socialist, Christian and secular, operating at national level. Until a few years previously, the three unions had been bitter enemies, but were at present combined in a single trade union confederation. There were also many craft unions, which sometimes had a very negative impact, particularly in the public sector, and regularly opposed the major unions. Trade union membership was very high in Italy; at least 80 per cent of the working population belonged to a union, although that figure was currently declining, particularly in the public sector. There were no regulations governing lock-outs, although they sometimes took place. However, a worker who suffered injury or loss as a result of a lock-out could bring a case against his employer for damages. It should be noted that due notice had to be given before a strike was called in an essential sector of the economy.

21. Under the law, migrant workers were treated no differently from Italian workers. However, in actual practice a vicious circle was in operation. Illegal workers from outside the European Community took employment under any conditions and obviously had no incentive to report an employer taking advantage of that situation, since they would be sent home if they were discovered. The problem was thus to fight abuses that the victims themselves were unwilling to report. The difficulty had been partially resolved by the 1990 Act, which had allowed illegal immigrants who had entered the country before that date to regularize their situation. However, the practice had clearly been taken up again with the arrival of more illegal immigrants.

22. Italy was at present well provided with child day-care centres since the birth rate was very low and the centres had been set up at a period when it had been very high. Consequently, there was no shortage of places at present.

23. With regard to family planning, abortion was legal during the first three months of pregnancy. Abortions could be carried out in public hospitals, which had special abortion clinics. It should be noted, however, that conscientious objection to the practice on the part of some medical staff of public hospitals was respected. In addition, the public health services ran responsible parenthood centres, staffed by social workers, physicians and psychologists. Each town also had a family planning centre, again staffed by physicians, social workers and psychologists, which offered free contraceptive services, including advice on family planning.

24. He realized that European unification might have a harmful effect on working and living conditions in a number of sectors currently in difficulties. However, that process was irreversible and, instead of trying to halt it, efforts should be made to overcome the problems involved. Italy, which had always endorsed the need for a social welfare dimension in the

European Community, was persuaded that in the long run European unification could not but promote the realization of social rights. It was also noteworthy that Italy extended protection to unskilled workers under the European Community's Social Charter.

25. Up to four or five years previously, the teaching of religion had been compulsory in schools. Since Italy was a secular republic, the authorities had decided that precedence could no longer be given to one denomination over another and had thus decided to make religious instruction optional. By that decision, children 16 years of age and above could themselves choose whether they wished to receive religious instruction; for children under 16 years of age the decision lay with the parents. Furthermore, the authorities had provided that children who did not wish to receive religious instruction should be obliged to follow a course in another subject, civics. However, the Constitutional Court had ruled that no alternative course might be provided. Consequently, children who did not receive religious instruction had more free time, which obviously did not encourage them to choose such instruction.

26. He drew attention to the fact that censorship did not exist in Italy.

27. With regard to paragraph 6 of the list of issues to be taken up (E/C.12/WG/1992/CRP.3/Rev.1), the rights recognized in the Covenant were applied throughout the territory of Italy and were guaranteed for everyone within that territory.

28. As for maternity rights, although it was true that female home workers enjoyed fewer benefits than female factory workers and had more difficulty in finding work subsequently, there were plans for reform of the legislation currently in force on the matter in order to eliminate any discrimination.

29. With regard to issue No. 31, all children, apart from the small number of street children, enjoyed the same degree of protection.

30. The decision to raise the statutory age for retirement to 67 had been made for social and economic reasons. On the one hand, the increase in life expectancy meant that many persons were still in full possession of their mental and physical faculties at 65 and thus wished to continue working; on the other, the payment of lump sums and retirement pensions to all those reaching the age of 65 years in 1992 would have placed an enormous financial burden on the country, in the middle of an economic crisis. The authorities hoped that an improvement in the economic situation would subsequently allow them to meet those financial obligations. The law did not permit pensioners to receive retirement benefit and at the same time engage in gainful employment.

31. The elderly had the same access to the public health services as everyone else, whether employed, retired or unemployed. They could be given nursing care at home following an accident or in the event of illness, even if chronic, and hospitals had special wards for patients suffering a terminal illness. Some religious institutions also took care of old people. The elderly, nevertheless, posed a considerable problem, for many of them could no longer function independently and had only limited financial resources. To cope with the situation, more residential homes were needed, but that would

require a very large injection of capital. A recent law relating to voluntary services had helped to regulate and support the increasing number of private initiatives to assist the underprivileged and of the elderly sick, handicapped or destitute. There were universities for the elderly in the major cities, such as Rome, Milan or Turin, which were being attended by increasing numbers of the elderly. Social security was financed by the State for public sector workers and by the National Social Welfare Institute, an independently administered public institution operating on contributions from wage-earners in the private sector.

32. In Italy, as elsewhere, cohabitation out of wedlock was becoming increasingly common. Legislative measures had been taken to protect common-law families and children born out of wedlock, who were nowadays treated no differently from legitimate children.

33. As for orphans, there had been a vigorous demand for adoption for many years. The former law on the subject had stipulated that the age of the adoptive parents had to exceed that of the adoptee by 40 years. That over-stringent provision had led many couples to seek children for adoption abroad, but the authorities had subsequently found that the relevant rules had not always been observed and had in certain cases had to remove children from their adoptive parents and send them back to their countries of origin. There was also fostering, which involved placing a minor without a suitable home temporarily with another family, with or without a child, or with a single person, or even in a family-like community, to house, feed, educate and bring up the child. That process did not generally lead to adoption, but it was not excluded.

34. With regard to the drop-out rate in universities, the fact that only 30 per cent of enrolled students finished their studies and received a degree was partially because there was no limitation on the number of students entering university, except in the case of some very technical courses. Many young people entered university in order to gain exemption from military service, which applied up to the age of 27.

35. The shares of the public and private sectors in television broadcasting in Italy was 40 per cent and 60 per cent respectively.

36. The re-entry visa required for nationals of countries outside the European Community, who wished to leave the country for a short period, was designed to ensure that persons working in Italy were in order with the authorities and to ascertain the numbers of foreign workers.

37. In reply to the question from the representative of WHO on home care for AIDS patients, Act No. 135 of 5 June 1990 had introduced a programme intended to guarantee such persons appropriate skilled care when the acute phase of the disease had subsided and their treatment no longer called for hospitalization. The Act provided that their treatment could be continued at home with the help of the nursing staff of the hospital that had discharged them, in consultation with the hospital medical staff and the family doctor. Treatment might also be provided by communities, who could call on the services of social security nursing staff, which would follow the instructions of the hospital authorities. A sum of 20 billion lira had been spent on the programme

in 1990, an outlay which could rise to 60 billion from 1991. It was nevertheless true that the regional authorities, who were primarily responsible for implementing the programme, were not always able to use the funds allocated; some adjustment of the mechanism might thus be necessary.

38. The CHAIRMAN asked Committee members if they had any comments or wished any further information on the points covered by the representative of Italy.

39. Mr. SIMMA, returning to the housing question, said that the representative of Italy had given a very clear and convincing explanation for the changes made by the Italian authorities to the rent system. He feared, however, that in view of the average household income, an entire sector of the population would be unable to pay the new rents, which would probably be very high. Should the State not be paying a housing allowance to those in need? In many European countries, the market for rented accommodation was still very much in favour of property owners, and the State had to intervene. Furthermore, it had been said that the owner of a rented property could not evict a tenant in order to occupy the property himself, if he had another residence. Would that proviso apply if it was the owner's wife, for example, who owned the second residence? According to the new rent system, the owner of rented accommodation waived his right to terminate a lease for an initial period of four years, followed by a further period of two years. Consequently, at the end of that six-year period, he could terminate the lease merely because the given period had expired. Would it not be better to reconcile the interests of tenants and owners by establishing, as in other countries in Europe, a system by which a lease could be renewed indefinitely in exchange for a periodic increase in rent, to be fixed according to various indices and criteria?

40. Mrs. BONOAN-DANDAN said that the representative of Italy had merely mentioned that more houses would have to be built if everyone were to enjoy suitable accommodation. She would appreciate more detailed information on the actual measures the Government had taken in the interim to help the thousands of homeless persons in the country, in particular foreign nationals and street children.

41. Mr. TEXIER said that like the previous two speakers he would return to the question of housing. He understood that the new law on fair rents was intended to give impetus to the building industry and to redress the unfair situation in which persons with a high income paid a low rent under the terms of the former legislation. However, that did not solve the problems facing the least advantaged groups among the population. Since the Covenant recognized the right to housing, a State party was obliged to protect it; even though it adopted privatization and decentralization measures, it should nevertheless retain a major share of responsibility in some sectors, such as low-cost housing, or at least provide subsidies to facilitate access to housing by disadvantaged groups.

42. Mrs. JIMENEZ BUTRAGUEÑO said that although she recognized that the system established by the new legislation relating to fair rents had the merit of freeing rents that were too low and encouraging housing construction, she

wondered if there were other parallel measures to provide housing assistance to counterbalance the harmful effect that the new legislation would undoubtedly have in some areas.

43. She noted further that the representative of Italy had not replied to her question on the decision to raise the statutory retirement age to 67, namely whether the measure applied to all workers whether they were engaged in demanding physical labour or exercised intellectual pursuits. Furthermore, she had read with concern in the press that the Italian authorities had decided to freeze retirement pensions and asked whether that was a general measure or one that applied only in the case of large pensions. Lastly, she asked whether Italy had any political parties or associations for the elderly - for example bringing together former civil servants or members of the professions - and if so how powerful they were.

44. Mr. RATTRAY, noting that the Italian Government had considerably reduced its budget allocations to the health sector and had adopted a new policy aimed at privatizing health services and ceasing to reimburse the full cost of medicines, asked whether that would not limit access by vulnerable and marginalized groups to health services that had formerly been available to all. How did the Italian Government reconcile such retrograde steps with the obligation incumbent on it under article 2 of the Covenant to achieve progressively the full realization of the rights recognized in the Covenant by all appropriate means?

45. Mr. MEZZALAMA (Italy) said that the condition governing the legal eviction of a tenant by the owner of rented accommodation applied whichever member of the owner's family held the title to the accommodation in which he was living. As for the solution Mr. Simma suggested, a lease renewable indefinitely in conjunction with periodic increases in rent, he feared that such a system would paralyse the housing market. The system governing public housing had not been swept away by the new legislation relating to fair rents. A number of measures also existed to facilitate access to ownership of property. Low interest loans were made for the purchase of a first home and wage-earners could ask for early payment of a retirement lump sum to buy an apartment or a house. A measure of tax relief for the purchase of a first home was at present under consideration by the authorities. Such facilities naturally assumed possession of some financial resources at the outset, but they nevertheless helped to reduce some housing problems.

46. The reform of the national health service aimed at reducing the inroads it made on the national budget would not affect the most vulnerable sectors of the population, who would remain fully covered. Only those with relatively high incomes would be subject to certain restrictions and face increased charges.

47. With regard to enjoyment of the right to housing, there should be no confusion between the homeless and those who, not having the means to pay a high rent, were often housed in unsatisfactory conditions (in workers' hostels for example). The real homeless - for whom homelessness was sometimes a chosen lifestyle, as in the case of tramps and gypsies - formed a very small proportion of the population. Their situation undoubtedly posed problems, for example, in relation to the education of children, but they were not of the

same dimension as those facing persons with real housing difficulties, which arose when the rents asked on the housing market were out of proportion to incomes. That was where State action was needed to provide persons on a low income with low-cost housing. Nationals of countries not belonging to the European Community, on applying to the relevant authorities for employment could at the same time ask them to find them suitable housing. The same services would look into the possibilities of both employment and accommodation. There were associations for the elderly and even a political party for retired persons, which had sent deputies to the Italian Parliament.

48. Mr. SIMMA agreed that a system where leases were of indeterminate length would ultimately paralyse the market. It would seem, however, that a system that offered leases of indeterminate length coupled with the opportunity for the owner to increase rent from time to time, within certain limits to be set by the law, would be preferable to a system in which, at the end of a lease, an owner could throw the tenant out or triple the rent. He had not had in mind subsidies aimed at facilitating home ownership. In his view, there would always be a proportion of the population that would never be in a position to buy a home. If rents went up, and were to go up still further in the wake of the new legislation, there would perhaps be a need for the Italian State to subsidize housing for the most vulnerable or disadvantaged groups.

49. Mr. MEZZALAMA (Italy) said he did not think that any rent subsidies existed as yet in Italy, but it was a useful idea he would pass on to his Government. It was his understanding that the new system included corrective measures of some sort. New problems called for new solutions.

50. The CHAIRMAN thanked the Italian delegation for the information they had given the Committee.

51. Mr. MEZZALAMA (Italy) expressed his appreciation of the very fruitful dialogue he had had with the members of the Committee. The Committee's questions would be useful pointers in the preparation of Italy's next report.

52. The Italian delegation withdrew.

53. Mr. Alston took the Chair.

Concluding observations on the report submitted by Poland (E/C.12/1992/WP.11)

54. The CHAIRMAN invited Mr. Rattray to submit the draft concluding observations he had prepared on the report submitted by Poland.

55. Mr. RATTRAY said that the document endeavoured to incorporate the comments made by Committee members and to reflect the general feeling of the Committee. He suggested three changes: in the English text only, to replace the word "initial" in the second sentence of the first paragraph by "written"; to correct a typing error in the English text only by removing the words "and the" at the end of the second line in the second paragraph; and to replace the words "supplementary information" in the second sentence of paragraph 4 by "the third periodic report to be submitted by 30 June 1994".

56. The CHAIRMAN suggested that the Committee should consider the draft concluding observations paragraph by paragraph.

Paragraphs 1 and 2

57. Mr. SIMMA said that in the English text only the words "the Committee" should be inserted at the start of the penultimate line of paragraph 1.

58. Mr. WIMER ZAMBRANO said that in the second line of paragraph 2 in the Spanish text, the adjective impresionantes appearing before datos appeared to him exaggerated and inappropriate and should be replaced by the words muy precisos, muy exactos or muy completos. In the same way, he did not think the words refrescante franqueza ("refreshing frankness" in English) in the last sentence of that paragraph were appropriate in concluding observations. He stressed the need to use similar language and style in the concluding observations on reports from different countries.

59. Mrs. JIMENEZ BUTRAGUEÑO said she shared the view expressed by Mr. Wimer Zambrano.

60. The CHAIRMAN suggested that the second sentence of paragraph 2 should be deleted and the word "frankness" inserted in the first sentence. With that amendment paragraph 2 would read: "The Committee wishes to express its appreciation for the comprehensive nature and frankness of the oral presentation and the impressive supporting data which was provided".

61. It was so decided.

Paragraph 3

62. No comment.

Paragraph 4

63. Mr. WIMER ZAMBRANO said that in the second sentence of paragraph 4 in the Spanish text, the verb pediréa should be in the indicative and not the conditional mood and the wording somewhat simplified.

64. The CHAIRMAN said he did not consider the conditional justified in the English text either. The word "would" should thus be deleted. The second sentence would therefore begin: "The Committee requests ...".

65. Mrs. BONOAN-DANDAN recalled that the Chairman's note on the concluding observations had envisaged the observations beginning with a statement of the facts followed by any comments, requests, and so forth, which the Committee wished to make to the Government of the country whose report was under consideration. In that case, paragraph 4 should be placed at the end of the concluding observations.

66. The CHAIRMAN said he shared Mrs. Bonoan-Dandan's view. However, since paragraphs 3 and 4 made up a whole, both of them should be moved. He

suggested that the Committee should continue to consider the various paragraphs of the draft concluding observations, leaving the matter of the order of those paragraphs until later.

67. Mrs. JIMENEZ BUTRAGUEÑO said that the wording of paragraph 4 was not very clear, at least in the Spanish text.

68. The CHAIRMAN suggested that the first sentence of the paragraph should be amended to read: "It remained unclear which economic, social and cultural rights could be directly enforceable".

Paragraph 5

69. Mr. SIMMA said that any suggestion of conditionality ought to be removed from the last sentence. He therefore proposed that the word "should" be replaced by "do".

Paragraph 6

70. Mr. WIMER ZAMBRANO said he did not believe the Polish delegation was entitled to reassure the Committee.

71. The CHAIRMAN suggested that the words "The Committee was reassured by" should be replaced by "The Committee was informed by".

Paragraph 7

72. Mrs. JIMENEZ BUTRAGUEÑO considered that, in the Spanish text, the tenses of the verbs in the first sentence were not correct. She would prefer to replace se había abolido by se haya abolido and se había introducido by se haya introducido.

73. Mr. TEXIER considered that the word On at the beginning of the second sentence in the French text was too vague. It was not clear whether the Committee or only some of its members was intended.

74. The CHAIRMAN said he did not consider that On should be replaced by Le Comité or Certain membres du Comité in the French text. The wording of the English text, "Concern was expressed", was deliberately unspecified. He would endeavour to resolve the problem, which affected the French text only, with Mr. Texier after the meeting.

75. If there was no objection, he would take it that the Committee adopted its concluding observations on the report submitted by Poland. If Mrs. Bonoan-Dandan and Mr. Rattray could agree on a different ordering of the paragraphs, the present order would be changed. Otherwise it would remain as at present.

76. It was so decided.

The meeting rose at 6.05 p.m.